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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/423,402 04/18/95 SCHWARTZ

22M2/0925

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E 15358-24  
EXAMINER  
CANGIALOSI, S

ART UNIT PAPER NUMBER

2202  
DATE MAILED: 09/25/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 6/19/95 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |   |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____   |

**Part II SUMMARY OF ACTION**

1. ☒ Claims 1-32 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☐ Claims \_\_\_\_\_ are allowed.
4. ☒ Claims 1-32 are rejected.
5. ☐ Claims \_\_\_\_\_ are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☒ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

**EXAMINER'S ACTION**

Art Unit: 2202

1. Claims 1-32 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim language "expected to be requested...recently..expected range..not feasibly determined..accessible by attackers, etc" are not an positive limitations, and hence ambiguous since they depend on the performance of future acts. It is suggested that "expected" be replaced by --predetermined--.

2. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Art Unit: 2202

3. Claims 1-32 are rejected under 35 U.S.C. § 103 as being unpatentable over Arnold et al(176), Gaffney, Jr or Ogura in view of Nakamura and James.

Arnold et al(176) (See Cols. 20,61 and 65), Gaffney, Jr(See Fig. 1) or Ogura(See Figs. 7-9) disclose a system and method to inhibit program duplication including the differentiation with respect to treatment and coding of branch instructions substantially as claimed. The differences between the above and the claimed invention is the specifics of data encoding and data compression. While the first is believed to be inherent in the primary items of evidence, Nakamura(Fig. 1, elements 5 and 6) show specific different data encoding in a single program and James(See Cols. 15-18) shows specific encryption prior to compression. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Arnold et al(176), Gaffney, Jr or Ogura because it is conventional and standard practice to substitute one data coding for another and include standard signal conditioning such as compression to make more efficient use of one's bandwidth and these components are no more than the conventional equivalents of what is disclosed in the primary item of evidence. The deficiencies of the art with respect to some of the dependent claims deal with the conventional cryptographic protocols.

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Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number (703) 305-1837.

*Salvatore Cangialosi*  
SALVATORE CANGIALOSI  
PRIMARY EXAMINER  
ART UNIT 222